

EI- 18548

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April 20, 2011

**VIA EMAIL: [Simon.Monroe@noaa.gov](mailto:Simon.Monroe@noaa.gov)**

Simon Monroe  
National Geodetic Survey  
N/NGS12  
1315 East-West Highway, #9202  
Silver Spring, Maryland 20910-3282

Re: Michigan Air-Line Railway Co.-Abandonment  
Exemption-Line in Oakland County, Michigan-  
STB Docket No. AB-1053 (Sub-No. 1X)

Dear Mr. Monroe:

You and I have communicated previously regarding the proposed abandonment of a rail line in Oakland County, Michigan, by Michigan Air-Line Railway Co. (MAL Railway). The most recent series of communications began with my letter to you dated November 12, 2010. With that letter, I sent to you a Combined Environmental and Historic Report (CEHR-1) that was to be attached as an exhibit to a Notice of Exemption MAL Railway was intending to file with the U.S. Surface Transportation Board (STB) for the purpose of abandoning a segment of MAL Railway's rail line in Oakland County, Michigan.

For a variety of reasons, the Notice of Exemption was not filed with the STB, and on January 28, 2011, MAL Railway instead filed with the STB a Petition for Exemption (Petition) in the above-referenced docket, seeking to obtain authority from the STB to abandon the entirety of its rail line (Line) in Oakland County. Attached to that Petition as Exhibit F is a Combined Environmental and Historic Report (CEHR-2), which was sent to you for your review and comment under cover letter of my letter of January 5, 2011. Notwithstanding MAL Railway's change of direction by the filing of the Petition in lieu of a Notice of Exemption, the communications with you and others in connection with CEHR-1 regarding the location of geodetic markers along MAL Railway's rail line in Oakland County continue to be relevant to CEHR-2.

Simon Monroe  
National Geodetic Survey  
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In the early Fall of 2010, MAL Railway engaged Thomas M. Smith, a licensed professional land surveyor, to determine the presence of geodetic markers (control stations) along the entirety of MAL Railway's Line, rather than just the segment of MAL Railway's rail line which would have been abandoned pursuant to the Notice of Exemption. The recorded locations of the control stations were provided to Mr. Smith by Dave Rigney, the State of Michigan Geodetic Advisor, who serves as the agent in Michigan for the National Geodetic Survey (NGS). Mr. Smith prepared a report of his efforts, which indicated that he had been unable to locate any of the control stations along the Line. That report was sent to Mr. Rigney on October 25, 2010.

In sending this report to Mr. Rigney, Dirk H. Beckwith, my co-counsel for MAL Railway, indicated MAL Railway believed it had done all that it could do to locate geodetic markers (control stations) along the Line, which extends through the communities of Commerce, Walled Lake and Wixom, and Mr. Beckwith requested Mr. Rigney to confirm that MAL Railway "has done all that it can do before MAL [Railway] can salvage the tracks and other materials along the railroad's right-of-way west of Haggerty Road." By his email dated October 26, 2010, Mr. Rigney replied as follows: "I will submit these recoveries and that should cover everything."

Following your receipt of CEHR-1, to which Mr. Smith's report was attached, you emailed me on November 19, 2010, to advise of two geodetic marks that may be located in the area described in CEHR-1. I responded by an email dated November 22, 2010. In my response, I indicated that your November 19<sup>th</sup> email had been forwarded to Mr. Smith, who responded by indicating he had looked for the two markers identified in your email, but "[n]o remains were found." I noted that this response is consistent with Mr. Smith's earlier report, and I concluded by expressing my belief that MAL Railway had adequately responded to your email, but invited you to contact me if further information was needed. You made no further response or inquiry.

As noted previously, you were sent CEHR-2 under cover of my letter of January 5, 2011, inviting you to review and comment on that document if you found any information therein to be misleading or incorrect, or if you believed pertinent information to be missing. CEHR-2 replicated the essence of the information in CEHR-1 regarding the concern of NGS that all geodetic markers that might be implicated by salvage operations be located prior to commencement of salvage operations. In addition, CEHR-2 contained a synopsis of the foregoing discussion in this letter, regarding your email of November 19, 2010. In addition, Mr. Smith's report was attached as Exhibit 4. To date, you have not offered any comment to CEHR-2.

The foregoing serves as background for recent activity of the STB regarding MAL Railway's Petition. On March 29, 2011, STB's Office of Environmental Analysis (OEA) posted to the STB's website an Environmental Assessment (EA), which recommended that several conditions be imposed on any decision by STB granting abandonment authority to MAL Railway. One of those conditions is that MAL Railway must "consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that would disturb and destroy any geodetic station markers."

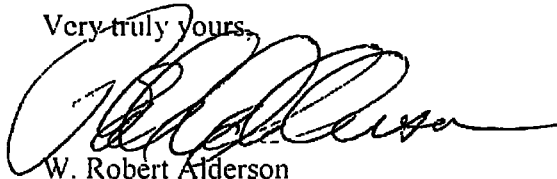
Simon Monroe  
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However, in consideration of the previous discussion in this letter concerning the communications which have occurred regarding the location of geodetic markers (control stations) along the Line, including the report by Thomas M. Smith, P.S., and the emails exchanged by you and me, it is my belief that no further consultation between MAL Railway and NGS is warranted. Furthermore, since Mr. Smith's report indicates that no control stations along the Line have been located, salvage activities on the Line following its abandonment will not "disturb or destroy any geodetic station markers." Thus, providing NGS with 90-days notice prior to commencing salvage activities is unnecessary.

Therefore, if you agree with my conclusions, I would respectfully request that you send me an email, with a copy to Dave Navecky (david.navecky@stb.dot.gov) at the OEA, confirming that no further consultation by MAL Railway with NGS is needed, and that MAL Railway's notification of NGS prior to commencing salvage activities is unnecessary.

Thank you for your consideration of this request. Please let me know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Robert Alderson", written over a horizontal line.

W. Robert Alderson  
ALDERSON, ALDERSON, WEILER,  
CONKLIN, BURGHART & CROW, L.L.C

WRA:bjb

cc: R. Robert Butler  
Dirk H. Beckwith, Esq.